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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/770,613	02/02/2004	Roger M. Snow	PA0967.ap.US	2305
75035                      7590                      09/08/2008 Mark A> Litman and Associates, P.A. York Business Center 3209 w. 76th Street Suite 205 Edina, MN 55435				
EXAMINER				
NGUYEN, BINH AN DUC				
ART UNIT		PAPER NUMBER		
3714				
MAIL DATE		DELIVERY MODE		
09/08/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/770,613

**Applicant(s)**

SNOW, ROGER M.

**Examiner**

Binh-An D. Nguyen

**Art Unit**

3714

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 28 January 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 May 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/5508)
- Paper No(s)/Mail Date \_\_\_\_\_

- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

The Amendment filed January 28, 2008 has been received. According to the Amendment, the specification has been amended. Currently claims 1-30 are pending in the application. Acknowledgment has been made.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Boylan et al. (5,863,041) in view of Suttle et al. (4,948,134).

Referring to claim 1, Boylan et al. teaches a method of playing a Pai Gow poker wagering card game comprising: (a) Players wagering on a Pai Gow game (1:59-65); (b) Players placing either an optional or mandatory wager (e.g., bonus bet) against a pay table on a separate poker-type game that uses a best five-card hand from each player's hand (1:65-2:22); (c) dealing seven-card hands from a set of cards to multiple player positions and one dealer position (1:66-2:3); (d) resolving the game of Pai Gow poker (2:3-13); (e) forming best five-card poker hands for at least each player having placed the wager against the pay table (2:14-19); (f) resolving wagers with players who have placed the optional wager when that player's best five-card poker hand equals or exceeds a predetermined rank (2:14-22). Boylan et al. does not explicitly teach the step

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of (g) providing an additional award to players who have placed the optional wager i) when that player's best five-card poker hand equals or exceeds a predetermined rank and ii) when a best five-card hand for the dealer is equal to or less than a predetermined rank. Suttle et al., however, teaches a method of playing poker which provides an additional award to players who have placed the optional wager (e.g., placing bet after an "ante") when that player's best five-card poker hand equals or exceeds a predetermined rank (2:21-42; 4:4-52) and when a best five-card hand for the dealer is equal to or less than a predetermined rank (e.g., when the dealer's hand is less than Ace-King)(2:32-35; 4:4-12). It would have been obvious to a person of ordinary skill in the art at the time the invention was made to provide the poker rule of Suttle et al. to Boylan et al.'s Pai Gow poker game to provide game player more winning chances thus attract more players to the game and increase casino profit.

Referring to claim 12, Boylan et al. teaches a method of playing a Pai Gow poker wagering card game comprising: (a) Players wagering on a Pai Gow game (1:59-65); (b) Players placing an optional wager (e.g., bonus bet) on a separate poker-type game that uses best five-card hands from player cards (1:65-2:22); (c) dealing seven-card hands to six player positions and one dealer position (1:66-2:3); (d) resolving the game of Pai Gow poker (2:3-13); (e) comparing each best five-card poker hand made from player cards against a pay table for predetermined hand ranks (2:14-19); (f) paying players who have both placed the additional wager and provided hands of at least the predetermined rank according to the pay table and rules of the separate poker-type game played with best five-card hands of the players (2:14-22). Boylan et al. does not

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explicitly teach the step of (g) if a best 5-Card hand for the dealer from the dealer's Pai Gow cards is equal to or less than a predetermined rank, increasing the amount of payment to players from (f). Suttle et al., however, teaches a method of playing poker which provides an award to players who have placed the optional wager (e.g., placing bet after an "ante") when a best 5-Card hand for the dealer from the dealer's Pai Gow cards is equal to or less than a predetermined rank (e.g., when the dealer's hand is less than Ace-King)(2:32-35; 4:4-12). Note that, the limitation of increasing the amount of payment to players as claimed is equivalent to providing additional award as taught by Suttle et al. since they both enhance the award of the players who placed bonus bet. Thus, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to provide the poker rule of Suttle et al. to Boylan et al.'s Pai Gow poker game to provide game player more winning chances thus attract more players to the game and increase casino profit.

Referring to claims 2, 3, and 13, Boylan et al. teaches the set of cards comprises a standard fifty-two card deck with at least one joker or the set of cards consists of fifty-three cards, a fifty-two card playing card deck and one joker (3:11-15). Regarding the limitation of there are six player positions to which hands are dealt (claim 2), since up to seven people can play a Pai Gow poker game (with a single deck of 52 card and a joker), a six player positions game to which hands are dealt is considered as a game design choice.

Referring to claims 4 and 14, Boylan et al. teaches the wager against a pay table does not enter the player into an envy hand wagering event (e.g., when the bonus bet is below a predetermined minimum)(4:44-52).

Referring to claims 5 and 15, Boylan et al. teaches the wager against a pay table enters the player into an envy hand wager event (e.g., when the bonus bet is above a predetermined minimum)(4:44-52).

Referring to claims 6, 11, and 16, Boylan et al. teaches a first level of the wager against a pay table (e.g., bonus bet) enters the player into the wagering event against the pay table and a second and higher level of wager against the pay table (e.g., when the bonus bet is above a predetermined minimum)(4:44-52) enters the player into the wagering event against the pay table and an envy hand poker gaming event (3:17-31; 4:53-5:1).

Referring to claims 7, 8, 17, and 18, Boylan et al. teaches the wager against the pay table is optional (3:3:33-36).

Referring to claims 9 and 19, Boylan et al. teaches a pay table for the best five-card hand for a player requires a rank of at least three-of-a-kind for payment (4:25-52).

Referring to claims 10 and 20, Boylan et al. teaches a pay table for the best 5-Card hand for a player requires a rank of at least a straight for payment (4:25-52).

Referring to claims 21 and 22, wherein no fee is charged by the dealer for a favorable resolution of the Pai Gow wager when the wager against the pay table is made and a qualifying wager for an envy hand poker game is made, this is a design choice since it depends on the rules of the house regarding charging a fee to players.

Referring to claims 23-30, wherein the additional award is a multiple of at least 1 times the wager against the pay table (claims 23 and 27); wherein the multiple is fixed (claims 24 and 28); wherein the multiple is variable, depending upon a composition of the dealer's best five card hand (claims 25 and 29); and wherein the sum of an award from step (f) and step (g) is equal to a multiple of the wager from step (b) (claims 26 and 30), these limitations are design choice since setting up different payment odds to the game does not bring unexpected results to the game output.

### ***Response to Arguments***

Applicant's arguments filed January 28, 2008 have been fully considered but they are not persuasive.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Boylan et al. teaches a method of playing a Pai Gow poker wagering card game comprising: (a) Players wagering on a Pai Gow game (1:59-65); (b) Players placing either an optional or mandatory wager (e.g., bonus bet) against a pay table on a separate poker-type game that uses a best five-card hand from each player's hand (1:65-2:22); (c) dealing

seven-card hands from a set of cards to multiple player positions and one dealer position (1:66-2:3); (d) resolving the game of Pai Gow poker (2:3-13); (e) forming best five-card poker hands for at least each player having placed the wager against the pay table (2:14-19); (f) resolving wagers with players who have placed the optional wager when that player's best five-card poker hand equals or exceeds a predetermined rank (2:14-22). Suttle et al. further teaches a method of playing poker which provides an additional award to players who have placed the optional wager (e.g., placing bet after an "ante") when that player's best five-card poker hand equals or exceeds a predetermined rank (2:21-42; 4:4-52) and when a best five-card hand for the dealer is equal to or less than a predetermined rank (e.g., when the dealer's hand is less than Ace-King)(2:32-35; 4:4-12). It would have been obvious to a person of ordinary skill in the art at the time the invention was made to provide the poker rule of Suttle et al. to Boylan et al.'s Pai Gow poker game to provide game player more winning chances thus attract more players to the game and increase casino profit. Boylan et al. in view of Suttle et al., therefore, made obvious the applicant's claimed invention.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not



mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Binh-An D. Nguyen whose telephone number is 571-272-4440. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Pezzuto can be reached on 571-272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Robert E Pezzuto/

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Supervisory Patent Examiner, Art Unit 3714  
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